

13 February 1984.

Dear Mr Christopherson,

Many thanks for your letter of to-day's date, together with its enclosure.

My suggested amendments to the record are confined to:

162 - 172 - 180 - 181 - 184 - 185 - 191
200 - 210 - 216 - 220 - 223

- a. errors, which are few and far between;
- b. instances in which anyone who was not actually present at the time would be liable to be misled - or at least mystified - by the particular phraseology I used.

Sidelined

148

170

197

211

213

I have also sidelined those passages which I would for my part wish to see excluded from the published record. I entirely accept, of course, that it is for the

Committee to decide whether or not to accept
my request in each instance.

Yours sincerely,

Ern. J. M. Levy

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HOUSE OF COMMONS
MINUTES OF EVIDENCE
TAKEN BEFORE THE
EMPLOYMENT COMMITTEE

WEDNESDAY 8 FEBRUARY 1984

SIR BRIAN TOVEY

Evidence heard in private.

Questions 144 - 232

Sidelined

p4 - Q148

p12 - Q170

p25/26 - Q197

p30 - Q211

p31 - Q213

MEMBERS' CORRECTIONS

Any Member of the Committee who wishes to correct the Questions addressed by him to a Witness is asked to send the correction to the Committee Clerk as soon as possible.

Members receiving these Minutes of Evidence are asked to ensure that the Minutes are confined to the object for which they are printed the special use of the Members of the Committee - and are not given wider circulation.

NB Correction to
Q 160
(which was
appended to
an Report)

WEDNESDAY 8 FEBRUARY 1984

Members present:

Mr Ron Leighton in the Chair
Mr Tony Baldry
Mr Gordon Brown
Mr Don Dixon
Mr Ken Eastham
Mr John Gorst
Mr Greville Janner
Mr Gerry Neale
Mrs Elizabeth Peacock
Mr Peter Thurnham

Chairman

144. Sir Brian, many thanks for coming and will you accept my apologies for the delay in seeing you. It is the exigencies of parliamentary business which we do not control, but we are very pleased to see you. Could we ask you, to start with, how you stand as an ex-director? I think you were a director until four months ago. Could we ask you how you stand under the Official Secrets Act and what sort of clearance you needed to appear before us today?

(Sir Brian Tovey) I am still bound by the provisions of the Official Secrets Act and, therefore, I am not free to enter upon any classified matters. As regards my appearance here today, I thought it prudent and right to check with the Cabinet Office on precisely what my position was and I was assured by the Secretary to the Cabinet that the decision as to whether I appeared before you or not was entirely up to me, and I elected to do so.

Chairman: That is very clear. Thank you.

Mr Gorst

145. Further to the background, I wonder if I could ask Sir Brian what his understanding of this meeting is in one respect:

I believe that you have been invited here to a private meeting of the Select Committee, at which we will have a shorthand note of what we say, and I believe that the reason for doing it this way was so that, should anything be said inadvertently or you would wish to reconsider it, there would be an opportunity for you to do so, to correct the record, so to speak, or to eliminate from the record anything. Having said that, would it be possible, with your permission, if the Committee so wish, to make use publicly of any of your remarks or would that be, as it were, flouting the terms on which you have been invited here?

(Sir Brian Tovey) No, I do not think so. Subject to, as you very helpfully suggested, my having a sight of the shorthand record and being able to amend or, if absolutely necessary, strike out anything which seemed to me not suitable for public use, then I would be entirely content for what was left to go on public record.

Mr Janner: May I put an alternative, please? Would it not be possible for Sir Brian to indicate, as and when he wishes, and I am sure without any contrary view being put by any of us, those parts of what he says that he would wish to be off the record? That is the normal procedure in the House and I am sure it would be totally honoured. In other words, if anything you wanted off the record, that is it. If you were to do the route with the shorthand writer, that would take a week and one would not be able to make use, as would be totally proper, of those parts of the evidence you gave, in order that the Committee may, for example, if it sees someone else, ask him about it.

Chairman

146. If you feel that any of the questions trespass on matters of national security, please tell us and you obviously will not answer questions in that area. Can I begin by asking you whether

this article in the Sunday Times is anything approaching the truth and a correct record of your interview with them?

(Sir Brian Tovey) Yes, with certain exceptions, it is a very fair and balanced presentation.

147. I will ask my colleagues to ask questions but I see, in the penultimate paragraph, it says, "For his part, Sir Brian Tovey is dismayed at the way that his plan was brutally presented to the staff whom he believes are paragons of loyalty." Are you dismayed?

(Sir Brian Tovey) No, that was one of the exceptions and in fact a letter appeared in The Times over my signature the following day which I hope made that absolutely clear, that I was not dismayed, and indeed that I considered the way in which the proposal or plan had been put forward was the only possible one.

Mr Neale

148. Would it be helpful if we had all the exceptions at the start, where you do challenge the report?

(Sir Brian Tovey) I am not, obviously, going to go into points of minor detail. The statement in the fifth column on page 15 of the Sunday Times, the reference to a work to rule by radio officers limiting the degree to which Cheltenham could eavesdrop on Soviet tank and troop movements; I did not say that. I said words to the effect that it limited our ability in some respects to keep under review the whole spectrum of Soviet military activity. I would be grateful, however, if that particular statement by me did not appear in the record because I am verging on classified matters, but I thought it right to make that clear.

The second point I have already dealt with: the statement that I was dismayed at the way the plan was brutally presented to the staff.

Not so. The third point did not appear in the main Week in Focus article but in the news item on page one of the same issue of the Sunday Times. In the third paragraph it was said, "According to Sir Brian, there was 'subtle pressure' from the Americans". That is mis-reporting. I did not use that phrase.

Mr Janner

149. Maybe it was not subtle.

(Sir Brian Tovey) No, and it was not pressure either, but I would be pleased to come back to that if anybody would like me to.

Mr Brown

150. Can I begin by referring to the events of 1981 first of all? I think we all know your views about industrial action and the effects of it but what I want to be clear about is the events of 1981. When we met the trades unions last Wednesday, it made was/quite clear by the trades union spokesman that there was no national approach made to the national unions; in other words, no approach made by the employers' side to the unions officially asking them to exempt Cheltenham from industrial action. It was stated by the unions at our meeting that had such an approach been made at an official level, they would have taken that very seriously and, in the same way that they had exempted DHSS officers in certain instances, they would have exempted Cheltenham. This morning, the Foreign Secretary told the Committee that not only had a local approach been made but he also said that a national approach had been made. I would be very interested to have that matter clarified from your point of view, as someone who was at the centre of events.

(Sir Brian Tovey) Perhaps I ought to begin by saying in this and other contexts that I am speaking from memory. I have not been able to check the past files or, for that matter, the

present files but, from memory, the answer to the question is this: during the period of industrial action in 1981 there was one specific occasion on which an approach was made by a senior official of GCHQ at under-secretary level to the general secretary - I believe it was the general secretary; it may have been the assistant general secretary - of one of the national Civil Service trade unions. In other words, this was a GCHQ officer approaching a national level officer with the request that, for reasons that could not be gone into in detail - though, as I think I said to the Sunday Times, I instructed the official concerned that he could "sail pretty close to the wind" so as to, as it were, get the message across as far as he could. The reply, however, that my colleague received was, "Thank you. You are telling me where I am hurting Mrs Thatcher the most" and that was, in effect, the answer we got; in short, a refusal to prevent, stop, discourage industrial action in the particular area at the particular site concerned. That is, to my recollection, the situation.

151. Were Ministers aware of your views on the threat to the 24 hour operation of Cheltenham that was posed by the industrial action in 1981?

(Sir Brian Tovey) Yes indeed.

152. But there was no ministerial approach? I am not sure of the chain of command here, but it seems to me what we are talking about now, from your recollection, is an informal approach being made by a senior civil servant, certainly, to one of the officials concerned in the dispute. What we are not talking about is a national approach made by the employers' side to the Trades Union Council concerned with the management of the dispute to ask them to exempt Cheltenham.

(Sir Brian Tovey) To my recollection, I think you have described the situation accurately.

153. Sir Geoffrey Howe said in the House of Commons on Friday that he considered the action in 1981 as a danger to the state. Were you not then surprised at the time that more senior politicians, or indeed civil servants, had not taken up the matter with the unions at the national level, with the council organising the dispute?

(Sir Brian Tovey) I think this would have been extremely difficult because at that time the intelligence-gathering role of GCHQ had not been publicly avowed and I cannot see on what basis that kind of a high level approach could have been made.

154. What Mr Alistair Graham told us was this (he is referring to the events of 1979), and he goes on to say, "At that stage, after that, they could have come to the unions and said 'Look, we just can't tolerate industrial action at a sensitive establishment like this; it could have an impact on national security'. I think we would then have written that area off for the purposes of future industrial action."

(Sir Brian Tovey) That contrasts with statements made in the course of the dispute where the CCSU issued statements such as, "We have severely hit monitoring stations". I believe honestly the CCSU was very well aware, despite the non-avowal of GCHQ's intelligence function, of the damage they were doing.

155. If they were aware, is it not then surprising that the approach was not made at a higher level to the Council of the unions?

(Sir Brian Tovey) I come back to my point: officially, the intelligence-gathering role of GCHQ had not been avowed. Therefore, it would have been very difficult for a Minister or a senior official in Whitehall to take up the cudgels in the terms you are suggesting. Nevertheless, the CCSU's own statements at

the time indicate quite clearly that notwithstanding the non-avowal of GCHQ's activity, they were sufficiently aware of the role of GCHQ and its out-stations to appreciate the damage that this was doing in a particularly sensitive area. As my little story about the approach by a senior official of GCHQ to the general secretary of one of the unions concerned on a particular instance demonstrates, the unions were in fact frankly glad to have found what they regarded as a soft underbelly which they could attack.

156. That is, of course, not what they say, and they may argue that, with the single exception of an approach to one national official, whether he be general secretary or assistant general secretary, they, as the organising committee for this industrial dispute, were not made aware of the damage that was being done and of the fact that it was important that this area be exempt from action.

(Sir Brian Tovey) Well, I beg leave to differ.

Mr Gorst

157. Sir Brian, you are quoted in the extreme righthand paragraph of the SundayTimes article as saying that this incident, which I take to be somewhere round 8 March 1981, finally convinced you to put pen to paper and make a written recommendation with regard, I presume, to discontinuing unions at GCHQ. Is that right?

(Sir Brian Tovey) That is right, yes.

158. What I do not understand is why, after the Prime spy incident when GCHQ came in from the cold, so to speak, and was well known to be what it is, why did you not feel able then to hold consultations at whatever level with unions with regard to what the consequences of industrial disruption must inevitably be, if it is inevitable that banning them is the final answer?

(Sir Brian Tovey) I was frankly not convinced, on past experience, that the unions would be open to such an approach. I foresaw, rightly or wrongly, that an approach on those lines would merely confirm what they had clearly long suspected and, in some cases, realised, namely, that GCHQ and its operations were a very good target to hit as distinct, for example, from the DESS offices and other parts of the Government machinery which impact on the lives of the general public. It was and is my conviction that if, at that time, we had approached the Civil Service unions in the way you suggest, it would not have been productive and it would merely have caused the unions to issue, as it were, rallying cries to the defence of their trade unions rights.

159. Do you believe they would have been more noisy than those that have been issued at the moment?

(Sir Brian Tovey) Considerably.

160. In the light of the fact that the Government has now made a stand in the way it has, and in the light of the fact that the unions have now made concessionary offers in about three or four different aspects, and I imagine you are aware of what those offers are, would they not have been, at that time, acceptable guarantees if they had been available at that time?

(Sir Brian Tovey) I am speaking about that time and not the present because I think as far as the present is concerned I am not obviously privy to the negotiating positions of both sides in detail, other than what I read in the press, but, at that time, my feeling would have been that any no strike agreement or deal which lacked force of law could ^{not} have been guaranteed to ^{hold} ~~be~~ held. I am sorry if that seems a harsh view.

161. But if it had been guaranteed by law, would that have been acceptable?

Spide
SJB
on flow

(Sir Brian Tovey) If this had been an Act of Parliament which formally, as with the armed services, the police etc., laid down that members of GCHQ were in no circumstances to go on strike, to resort to disruptive action, works to rule etc., of any kind, yes, I think I would have seen that as an acceptable guarantee, but it would have needed an Act of Parliament.

162. Fine. Had they also at the same time conceded that they would not take cases to industrial tribunals with the consequences of that, and they had not demanded to have national unions from outside present at negotiations, would you have found that package acceptable or is there some other requirement that you would also have wished to add?

(Sir Brian Tovey) No, I do not think so, but it would have had to be in a legal framework, a cosy agreement, sort of signed over a cup of tea. It really would not, in my opinion, have been a sufficient guarantee.

163. May I change the subject briefly now and ask you whether you feel that this lack of consultation and negotiation will have led to any effect on the morale of people working at GCHQ?

(Sir Brian Tovey) I think it would be wrong of me to speculate on this. I would not have thought so, but that is only a personal speculation.

164. You do not think it would?

(Sir Brian Tovey) I would have thought not, but in the circumstances that can only be speculative.

165. You do not think that they are worried about the way events have been handled since the announcement by the Foreign Secretary?

(Sir Brian Tovey) It is very difficult for me to answer this question because I am not there; I am not privy to what is going on.

I can only, as it were, see what I read in the press or hear on the radio and the television. What I read in the press, what I hear on the radio and television and so on is inevitably the bad news because the bad news is what tends to get reported, as we all know. I believe very strongly in the existence of something called the silent majority and whilst I obviously have to believe what I read about the meetings and concern and so on and so forth, I strongly - indeed, I firmly - believe that the vast majority of GCHQ staff will have understood why these measures were necessary, but they are not the kind of people who hold meetings to say, "What a jolly good idea."

166. To what extent is the whole operation at risk if, say, 10 per cent of those who work at GCHQ decline to accept the terms that are offered and no longer work for GCHQ?

(Sir Brian Tovey) It would depend very much on the distribution of the 10 per cent between the various operational areas.

167. But as small a number as that, if they were in the wrong or in the key operations, could be a threat?

(Sir Brian Tovey) Yes.

168. Therefore you had contingency plans to deal with that if it arose?

(Sir Brian Tovey) Frankly I did not myself expect, and I still do not expect, but that is a purely personal view, that the figure would be anything like 10 per cent.

169. So there were no contingency plans to deal with that sort of situation if it arose?

(Sir Brian Tovey) I do not see quite what contingency plans could have been made for that.

170. Alternative people to fill the vacancies that might arise?

(Sir Brian Tovey) No. Perhaps if I can go off the record at this point, the contingency plans would be very much those that we had in mind at the time of industrial action involving not 10 per cent but rather higher figures than that. In those circumstances, we turned to our allies - more particularly, to the Americans - and said, "Help us; we are in trouble". That is the kind of contingency planning that we would have had to resort to if the sort of figure you are quoting affecting key staff were to eventuate.

Chairman

171. Sir Brian, when we had the trade unions here, I put the question to them had they caused industrial disruption in the past and they answered, quite frankly, yes, but they said two things. One, they suggested that it was modest, minimal. I think they said in relation to the Falklands that the disruption was an unofficial dispute in Hong Kong, but it was on a small scale and they said that was in the past; "We are willing to give guarantees for the future". If I look in the article, right at the beginning it talks of 1979 saying, "Cheltenham got its first real taste of industrial action. It was by most standards a modest piece of disruption." Then, if we go to the fifth column, it says, "The six Civil Service unions with members inside GCHQ were blissfully unaware of the alarm they were causing. That was partly because of Tovey's continuing affability, partly because the disputes were in their view merely niggling and partly because the members themselves were adamant that they would do nothing to jeopardise GCHQ's work. When, for example, on 11 May 1980, the TUC called for a nationwide day of action, only seven of the 7,000 GCHQ employees would agree to walk out." That tends to corroborate their suggestion that what happened was modest but it did agree that it had happened. It says here

that they were blissfully unaware of the sensitivity of what their actions could result in but would you say that is probably right or not: that the actions were modest?

(Sir Brian Tovey) I have of course seen a complete list of disputes between 1979 and 1981.

172. Are they the ones that Sir Geoffrey read out in the House?

(Sir Brian Tovey) Yes, that is right. The key disputes, not surprisingly were the longest ones: 23 February 1979 to 2 April 1979; 20 December 1979 to 13 February 1980 and 9 March 1981 to 14 April 1981. I am not saying for one moment that the other periods of industrial action were utterly trivial, but they certainly do not compare in importance or significance with the three particular periods I have mentioned. Would it help the Committee if I went through these in turn, the three main periods?

173. Yes. The article goes on to say you made a recommendation which was passed on to the Prime Minister and Lord Carrington. Is it so that this went to Lord Carrington?

(Sir Brian Tovey) Yes, he certainly would have been involved because GCHQ comes under his wing.

174. You would have seen the article on the front page of The Times which suggested that Lord Carrington and Francis Pym had, I believe the words were "told friends in the House of Commons that they knew nothing of this" or, if they did know something of it what was their attitude? Why did they do nothing about this?

(Sir Brian Tovey) I am quite sure that Lord Carrington would have known because he was Foreign Secretary at the time that the initial recommendation was made. That was early 1982. I do not believe the subject came up in any specific form during Mr Pym's time as Foreign Secretary.

175. But it did during Lord Carrington's time?

(Sir Brian Tovey) Indeed, yes.

176. Speaking personally, I am slightly puzzled as to why, in view of the seriousness that you obviously attach to this matter, the matter was not dealt with more urgently in, in this case, Lord Carrington's time.

(Sir Brian Tovey) The answer to that is - and I return to the point I made earlier in answer to another question - that Ministers felt (and this was the only reason) unable to proceed along the lines that they have now proceeded along because the intelligence function of GCHQ had not been avowed and they saw good and weighty reasons for not so avowing it. The situation changed quite dramatically in the wake of the Prime case when, as a result of the Security Commission's report and the Prime Minister's statement in answer, if I remember rightly, to a written question from Mr Michael Foot, the intelligence function of GCHQ was avowed. That was, if you like, the difference between those two periods.

Chairman: I do not know if you can change my mind but I find that personally rather thin and unconvincing, that a huge establishment with over 7,000 people involved in its activity was known - I am certain it was known to the KGB; I suspect they had their men there - and it was referred to in the ABC Secrets Affair, as you will know. If it was of such national importance, I would have thought myself it was the duty of Lord Carrington to have acted on your advice.

Mr Gorst

177. Chairman, before Sir Brian replies to that question, could I couple with your question the proposition that had there been no Prime spy case there would have been no pretext for banning unions?

(Sir Brian Tovey) I would not use the word "pretext".

Once again, we are on speculative ground. What is the case is that until Ministers had decided that it was right to avow the intelligence function of GCHQ, there was no firm and logical ground for seeking to ban unions.

178. Prime was a pre-requisite though?

(Sir Brian Tovey) Prime was the occasion which led Ministers inevitably to an avowal of GCHQ's function. There could have been many other reasons for avowing it; it happened to be Prime.

Chairman

179. Could I take you on to look to the future? We ended our session with the Ministers with a certain amount of common ground; that there were common objectives: the famous four points which everyone seems to accept, including the unions. The only dispute is over methods of achieving those objectives. You use this interesting phrase "a legal framework". We want some bankable assurances although even if we had assurances from the unions I have no doubt some of the general secretaries would say, "Look, we are men of honour; have we ever broken our word, having given it in national agreements?", but leaving that aside, the Government would still retain its powers to act, but I am very interested in your phrase "legal framework". How else could that be implemented? Could we have legally binding contracts of employment rather than statutes? Statutes involve parliamentary time etc. Is that a way in which you could get your legal framework, to have this incorporated into legally binding contracts of employment?

(Sir Brian Tovey) I am not sufficient of a lawyer to be able to put my hand on my heart in answer to that question.

I can only admit to a gut feeling that I would be much happier with an Act of Parliament which brought GCHQ, assuming we are moving in that direction, within the same ambit as the police and the armed services and so on.

180. The unions say they agreed to exempt Cheltenham from industrial action. It is a question, I think, of finding a formula. What importance do you put on the freedom of association, the democratic civil right to join a trade union? After all, it is to defend our freedom that your establishment exists. How serious do you take that? According to this article, on page 18, it says, "Nevertheless, the staff are, for the moment, putting up more resistance than anyone expected, most of all the Government. One prominent Minister" - it does not say who - "told the Sunday Times yesterday that GCHQ's management had given assurances that 'only about 20 people' would object to the union ban. The rest would welcome it. 'It may be they did not plan their campaign with care but they might have', said the Minister." I do not know if you gave this advice or who gave this advice that only about 20 people would be upset about losing their rights to freedom of association, but according to this article the staff are at the moment putting up more resistance than first expected. Can you shed some light on what advice was given and do you put any store or weight on the right of free association?

(Sir Brian Tovey) Perhaps I can answer the second question first: yes, I do. I was at one time in my GCHQ career a member of the committee of my own particular trade union First Division Association. I think it is a very important democratic right. Regrettably, the events of 1979 and 1981 forced me to the conclusion that it was not compatible with the kind of work that we were doing at GCHQ which demanded continuity, reliability and absolute freedom

from disruption. That was a sad conclusion to have to come to but I would like to assure you that I have no animus against trade unionism or trade unions in general. It was only those events. If we go back in history, when GCHQ was established after the war, there was, I believe, some discussion as to whether its members should be free to join trade unions. The conclusion - I think quite rightly in the light of events and attitudes at that time - was yes, they should. There was, however, in recent years, a distinct change in two respects. First, the Civil Service unions moved to a much more militant stance vis a vis Government and management. I am not for one moment trying to adjudicate blame as to why they did that. Secondly, they appreciated, realised, in a way that they had not done in earlier years, that GCHQ was a jolly good target to hit if you wanted to hurt HMG.

181. I do not want to hog this but there is one more point, if I may: you were a member of the First Division civil servants and I have no doubt you noticed that the First Division Civil Service branch in the Cabinet Office - and I imagine that is also a secure area - wrote to the Government objecting to what had happened and gave their view that it would be counterproductive. Therefore, there are views at the very top of the Civil Service and, from what we can gather from evidence we have heard, there are quite strong feelings, perhaps with a slightly different view to yourself. In view of what we might call the furor which has developed out of this and in view of the fact that it seemed to us this morning that the thing is not quite irrevocable, there is a certain amount of give in the situation, and another meeting is to be held with the Prime Minister; in view of all that, would you think it preferable and better if it were possible to arrive at a

mutually satisfactory agreement which would guarantee national security but at the same time would not destroy freedom of association, if it were possible to get that in some sort of perhaps legal framework?

(Sir Brian Tovey) I do not know precisely how that could be achieved but if it were possible to reconcile those two desiderata, yes, I am sure that would be an admirable outcome, but I must confess I do not myself see how it can be done. Could I take up one point in your remarks, Mr Chairman, where you referred to the Cabinet Office as being also a secure area? I think the important point is not just is this or that part of the Government machine involved in handling highly classified, sensitive material; is security an important consideration in its work? The factor which dominated my mind, certainly while I was running GCHQ, was the need to ensure continuity and freedom from disruption in our operations. It was not a question of saying, "This is an establishment which handles a lot of top-secret material."

Chairman: I think we have reached a stage in our inquiries that everyone we meet agrees that must be guaranteed.

Mr Baldry

182. You said, when you started to give evidence, that you were not today dismayed and you considered the way in which the plan was put forward was the only possible one.

(Sir Brian Tovey) Yes.

183. What I do not understand is why would it not have been possible, once Cheltenham had been avowed to be an intelligence unit and it had gone public, so to speak, for the Government to have gone to the trade unions at a national level and said, "Look, these are the problems. We have to have a continuous service; we have to have no disruptions, no intrusions" etc?

"Are you prepared to give us a watertight undertaking that this can be done?" Would that not have been ^apossible option?

(Sir Brian Tovey) It would have been a possible option but frankly, on the basis of past experience, when, despite the non-avowal of GCHQ, the unions at national level were aware of the importance of GCHQ's role, they were frankly not interested in a deal of that kind. I do not believe that the fact of avowal would have made them more interested in a deal of that kind. This is purely a personal judgment and I may be wrong, but that was certainly my view.

184. Last week the trade unions said to us that whenever they intended to take industrial action at GCHQ, they gave you 24 hours' notice because they said there was a lot of duplicate and triplicate work which went on at GCHQ which enabled you to take steps to minimise their activity. What I would like is an overall assessment of what damage the industrial action in 1981 did to our intelligence-gathering services.

(Sir Brian Tovey) First of all, I do not quite know what is meant by duplicate and triplicate work. Certainly the resources available to me were not such that I could duplicate or triplicate the work that we were doing. The overall damage is one of the most difficult things in the world to evaluate in precise terms because what you fail to collect and what you fail to process you do not know you have lost and therefore I can only say that the 1981 industrial action must have led to some loss of intelligence but I could not possibly quantify that or give you chapter and verse: we would have known so and so or we would have known such and such, because if you do not get it you do not know it or if you get it but do not process it you do not know it. I am sorry; I fear that

may sound a rather obscure answer but it is the best I can give. That, in a way, is the most frightening thing.

Mr Neale

185. Your assessment of the relationship between the management of GCHQ and the trade union management itself is a point that I would like to open with, if I may. Would you say that, despite even the disputes from 1979 to 1981, such trade union rights that exist in practice in GCHQ were a reduced form of trade union rights as against the trade union rights under the law that exists elsewhere in this country, or would you say that, in practice, if they so wished, they enjoyed the same rights at GCHQ as elsewhere?

(Sir Brian Tovey) I think they enjoyed the same rights in GCHQ as elsewhere. The only limitation was that national level trade union officials who were not cleared for knowledge of GCHQ's operations and activities were obviously not given information on GCHQ's operations and activities. Enormous efforts were made, however, to enable local trade union officials, who naturally in the nature of their work were fully cleared, to keep their national level officials informed of anything which was relevant to enabling the national level officials to perform their proper role. I can remember many instances in which documents, papers, proposals, passing between my establishment's division and the local trade union officials were, to use a perfectly awful word - and I do apologise - "sanitised" in order that the essence of those documents, in so far as they concerned employment conditions etc., could be given to national level trade union officials. I cannot remember a single instance in which a refusal was given to at least try to sanitise a document so that it could, where relevant, go to the national trade union officials. I am going into this in some detail because I think

it is relevant to your question, but apart from the security problem, as we might call it, I cannot think of any way in which the exercise of trade union rights within GCHQ was confined as compared with the norm outside.

186. Given that, as far as there is agreement now that the right to strike should be forfeited, if one looks at what the management ———. Given that there has been a formal offer made at this stage that the right to strike should be forfeited and that there should be restrictions on the industrial tribunal front, what do you perceive to be, from the point of view of the individual employee at GCHQ, the remaining disadvantage, if any, that he or she will suffer from by reason of the new proposals for a staff association or, if one likes, an in-house union?

(Sir Brian Tovey) I cannot actually think of any.

Mr Brown

187. Can I put the question the other way round then? What is the advantage of introducing a staff association when a no disruption agreement might achieve exactly the same effect as far as the industrial action problem you raise?

(Sir Brian Tovey) I think that there is no doubt that negotiations on a wide range of matters affecting conditions of service and so on could very much more easily be conducted where both sides of the negotiating table are working on the basis of common information. One of the problems, frankly, about operating as we were operating in GCHQ, in my day, was that so often one was almost in a dialogue of the deaf. If one was talking to national trade union officials who, although they had derived an awareness of what we were doing from the press and so on, were nevertheless constrained from actually saying so to management's faces, one was very often

negotiating in a kind of void. It was always very much easier to deal with those problems which did not have to be referred to national union officials because the local ones ———

188. But it always is for an employer.

(Sir Brian Tovey) ——— knew what we were talking about.

Okay, I know what you mean but it is an added and extra dimension of difficulty.

189. Surely that would be a matter that was best left to the workers at GCHQ to decide, whether they felt a union could better represent them than a staff association?

(Sir Brian Tovey) I think we may yet find — not until the figures of acceptances and non-acceptances are published — we may yet find that the workers at GCHQ do prefer a staff association. I can recall at least one instance in which I was approached by a member of staff who said, "We are being torn apart. On the one hand we appreciate the vital importance of what we are doing here; on the other we are under considerable pressure or considerable urging from our national unions to support our colleagues in other departments. Can you get us out of this situation?"

Mr Gorst

190. Could not the same argument be used to please religious affiliations, Quakers and pacifists? Could it not be applied to all manner of associations? People might have matters in their private lives which would be subject to these things. Why does one have to select trade union membership as the one thing to ban and not ban associations of all sorts of other things? Political parties, for example? Maybe the Communist party. Maybe they are banned, but what about other denominations of membership — Masons, for example? This is solely on the point of divided loyalty.

(Sir Brian Tovey) I am not sure I totally follow the argument.

If you are saying may there not be other cases of divided loyalty, well, if there were such other cases of divided loyalty, it could even amount to a security consideration. We do already, obviously, in the course of the vetting process, try to ensure that we do not employ people whose loyalty to the Crown and the democratic system is suspect. So, we try to avoid that kind of divided loyalty. I cannot see how membership of the Freemasons, for example, could impact upon somebody's loyalty to GCHQ.

191. Communists could, could they not?

(Sir Brian Tovey) If someone is working at GCHQ and finds that he or she has a conscientious objection to the nature of GCHQ's work, then he or she is honour bound to say so and every effort is then made to effect a move to another department. I cannot remember a Quaker instance. I can remember the instance of an individual -- and please, I would rather not go into detail -- who changed his or her religious convictions in a way that made it very difficult for that individual to go on serving in GCHQ. The individual concerned felt that this was not compatible with the work. They came to both the security and the establishment branches and that individual is now very happily employed by another Government department where this sort of clash does not occur, so yes, I agree this can occur but it is terribly rare.

192. Is it not equally rare for people to have this divided loyalty and those who did could simply have resigned from the unions so they only had one loyalty?

(Sir Brian Tovey) That is a great deal easier said than done in a practical, realistic world. A chap must feel that a union has, over the years, brought him enhancement in his pay, conditions of

service and so on, all of which are perfectly legitimate union aims and good luck to them. The chap who feels that he has benefited from his membership of a union will hesitate for a very long time before he throws in his hand and says, "I do not want to belong to that union", but, on the other hand, he is conscious of the fact that, if he follows his union's directions, guidance - call it what you will - to withdraw his labour or work to rule or whatever form of disruption the union specifies in a particular situation, he is damaging the work of an establishment in whose ultimate aims and purposes he believes very strongly. Hence this phenomenon - I do not know whether I used the word in the Sunday Times interview - which I call schizophrenia, and there was a lot of it.

Mr Neale

193. Drawing together two answers that you made, what you are saying is, is it not, that in your assessment, there is no realistic alternative to the one that has now been proposed and there was no other way that it could have been announced?

(Sir Brian Tovey) That is right.

Chairman

194. I would like to call Mr Eastham but before I do, when you were speaking about trade union officials, how would someone like Jack Hart fit into these categories? Is he someone who would have had security clearance?

(Sir Brian Tovey) Yes, absolutely.

195. Is he someone with whom you could work and is he someone in whom you have confidence and trust?

(Sir Brian Tovey) I think I would say yes to all those questions. Yes, he is a member of GCHQ. He is an elected, locally elected, trade union official. He is not a national level official.

He is fully cleared for the nature of the work that he is required to do and certainly I have no reason whatever to have any lack of faith in him.

Mr Eastham

196. I keep asking myself the question about the signing of this document and I ask myself how does it guarantee in any way loyalty when people opt to sign? If we are thinking about national security and we think if it was in foreign hands, they would be prepared to sign any document and I keep on asking myself how do we feel better about signing this document than keeping trade unions?

(Sir Brian Tovey) I do not think it has been suggested that a signature on this document is in any way a guarantee against another Prime or anything of that kind. The sole purpose of the move to remove the national trade unions from ^{the} GCHQ sphere is to ensure that the national trade unions are no longer able to call for such action as would lead to disruption of GCHQ's operations. That is, as far as I am concerned, the sole aim and objective.

197. Could I now go back to a point that was discussed this afternoon and it was also raised this morning. I raised it myself with Sir Geoffrey Howe over contingency plans. I was posing the question this morning as to what would be the position if there were some deficiency in the numbers. I must say I was rather startled at the comment you made this afternoon by saying that possibly you would have to use American personnel.

(Sir Brian Tovey) No, I am sorry. I asked for it to be off the record and I will ask for this to be off the record too. The close inter-working which GCHQ mercifully enjoys with the American agency concerned, the National Security Agency, does enable either party, if they are in difficulties for any reason, to say to the other

not "Will you send us Americans to come and work here?" or, for that matter, for them to say, "Will you send us British to come and work here?", but to ask the other party, "Will you be responsible for this particular job that would normally be on behalf of both of us?" That was all I meant.

Mr Eastham: I am grateful for the clarification because it led on to other questions in my mind as to sometimes differences, say, with our American partners. This is a possibility and therefore it may have embarrassing consequences just to where their loyalty would be at a time of any possible international conflict - and there have been one or two. That is the reason I wanted to clarify the position because it is very important.

Mr Dixon

198. You have mentioned Prime on a number of occasions and so have other Members of the Committee. What particular trade union did he belong to?

(Sir Brian Tovey) He would have belonged to the Society of Civil and Public Servants.

199. To my knowledge, he was never a member of a trade union. Would you confirm that or did you know him?

(Sir Brian Tovey) I did not know him personally. I believe - I am speaking from memory here, let me warn you - he was a member of a trade union. I believe he was moderately active in his union.

Chairman

200. Mr Dixon was not at the meeting when we had the TUC and I might mention the first question raised the answer that he had been a member of a trade union up until 18 months prior to his exposure and that the only trade union activity he had undertaken was to press for higher allowances for Russian speakers!

(Sir Brian Tovey) Fair enough.

201. He left the union 18 months before the thing came up.

(Sir Brian Tovey) Presumably he left when he left GCHQ, I would imagine.

Chairman: I think they said 18 months before he left GCHQ.

Mr Dixon

202. Judging by your remarks previously, I take it that you do not believe in someone having the right to belong to a trade union, even if he is not represented by that union? I was in the armed forces; I was in the Royal Engineers, but I kept up my union. You do not believe in that because you would have felt I had a loyalty to the union as well as to the Crown?

(Sir Brian Tovey) If one can put it into the sort of framework that applies in the armed services, I could not see any objection to that provided it is quite clearly understood that the individual is not an active member of the union.

203. Why, on the circular put out to the present trade unions - and I did not have to sign this when I joined the armed forces - is it specifically said, "I undertake not to join a trade union"?

(Sir Brian Tovey) Perhaps because nobody had thought of this particular way round. Can I come back, however, and say, would this actually be terribly comforting for the individual concerned, assuming him to be somebody who was very dedicated to his own membership of a trade union? It seems to me that there is this difference: when somebody joins the armed services, having been a trade unionist, he retains his trade union card, but he accepts that he cannot, as it were, be a practising trade unionist in the armed services; the point and purpose of his doing so is surely that when he leaves the armed services, which he will probably do at an age when he would

expect to take up further employment, the point is that he will then have continuing trade union membership and will not be embarrassed or inhibited in his search for new employment by the lack of trade union membership. I cannot actually see that that would have any realistic application to members of GCHQ who, in the normal course of events, accidents notwithstanding, will reckon to serve until they are retirement age and will not then - or only in the rarest instances - be going into the outside world to seek employment for which membership of the ESU, SCPS or CPSA would be a prerequisite. I am sorry I did not give a very good answer to your question before. Theoretically, I could not see any objection to somebody retaining membership of a trade union but not exercising their membership, but I wonder whether, in the real world, this has any application to people working in an organisation which normally reckons to give staff a lifelong career. It is a long answer but I think I needed to clarify that.

204. During the period of time you were at GCHQ, did you know of any local disputes, other than national disputes? Were there any local disputes?

(Sir Brian Tovey) None that caused or led to disruption or anything of this kind. Of course, there were the kind of debates, discussions, about carparks, the frequency of visits of welfare staff to out-stations, matters of this kind, but I would not call these disputes, no.

205. Outside the national disputes, there was nothing that would cause any concern as far as trade unions at Cheltenham?

(Sir Brian Tovey) Absolutely not.

206. Your fear - and obviously the fear of management - was that the people at Cheltenham, who obviously had good industrial relations

and there were no significant disputes, blindly followed national dictates when there was a national dispute?

(Sir Brian Tovey) I would not accept the word "blindly". I come back to my term schizophrenia. A chap who feels beholden to his union for what it has done for him, whilst at the same time being very conscious of the damage that he will cause if he takes part in any kind of strike or disruptive action, is pulled in two directions. Some chaps go one way; some chaps go another but enough chaps went what, from the point of view of continuity of GCHQ's operations, was the wrong way to cause me very grave concern.

207. Has Sir Brian ever served under a Minister who was a sponsored trade union Member of Parliament?

(Sir Brian Tovey) You are asking me if, during my 33 years at GCHQ, any trade unionist was a Foreign Secretary?

208. Would you have any inhibitions about going to a Minister who was a trade union sponsored Member of Parliament?

(Sir Brian Tovey) You mean any inhibitions about talking about GCHQ problems and so on? No. A Minister is a Minister, irrespective of party, trade union sponsorship or anything.

209. You do not have a civil servant in Cheltenham who is carrying out his job without any other allegiance? You have some higher ranking civil servants at Cheltenham who are privy to very secretive information who are members of trade unions?

(Sir Brian Tovey) Yes.

210. This is the reason why there is a ban on trade unions at Cheltenham, because of security problems?

(Sir Brian Tovey) No, I repeat it is not because of the security problems. So far as I know, no-one is saying that membership of trade unions makes one a security risk. That is the last

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thing I would want to say. The sole reason for the Government's proposals, as I understand them and as at one stage conceived them, is the need to avoid disruption caused by GCHQ being, as it were, dragged into industrial disputes on the national level.

Mrs Peacock

211. It has been suggested, and denied and suggested yet again, that this decision has been brought about by American pressure. Would you like to comment on that?

(Sir Brian Tovey) I would like to define what I mean by pressure. Pressure to me means when one party says to another party, "If you do not do this, I will do something unpleasant to you", or if you do do this, I will do something unpleasant to you." There has to be some form of implied subtle or explicitly stated threat for the word "pressure" to apply. I say absolutely and emphatically no, there was no pressure. Now, there was obviously American concern. There was perplexity frankly that an organisation which was doing work of a similar kind to their own organisation, which was therefore presumed to be of national importance to Her Majesty's Government, just as the National Security Agency is reckoned to be of national importance to the United States, there was perplexity that we should be subject to disruptive action of this kind. I repeat there was concern, legitimately so, because our operations and activities were very closely enmeshed, as I think some of my more detailed replies, particularly to the gentleman over there will have illustrated. Having said that, I could not accept the term "pressure". You may know that I caused a statement to be issued specifically denying that I had ever used the term "subtle pressure" and I may say that the author of the Focus piece and of the front page news item entirely accepts that I did not use that term.

212. Again, it has been suggested that the decision was taken because we now have Cruise missiles in this country. Would you like to comment on that?

(Sir Brian Tovey) Absolutely no connection. As far as I am aware ———. I am not even going to qualify it. Absolutely no connection.

Mr Brown

213. To complete that point about the Americans, I know about your denial of the use of the words "subtle pressure" as never being attributed to you, but when you say "concern", what was being said was, "We are unhappy about this situation"?

(Sir Brian Tovey) I am trying to think of the precise words that were used. Words like, "Well, obviously it is a bit troubling", or, "It is a bit troublesome". Frankly, there was great delicacy in not trying to push us or anything on this. ~~I~~ I would not have entirely blamed the Americans if they had, because in some cases we were imposing a greater load on them when we had to go to them and say, "We are victims of this particular kind of action; will you take up a task which you would normally reckon we should do because we are no longer able to perform it."

214. The fact that it was troublesome would have been reported to the highest levels?

(Sir Brian Tovey) It would have been reported by me to my immediate masters in Whitehall and the Foreign Office and the Cabinet Office. It is really not for me to say whether it went further than that.

215. That was not the question I wanted to ask you. It seems to me, from everything that you have said this afternoon, really the events that we now are faced with arise in part from misunderstandings.

What you have said to us is that you did not believe that the unions would accept a no disruption agreement. What you have said to us is that you did not believe, after one single approach to a union official, that the unions would exempt GCHQ from the 1981 events. What has also been said is that, after informal approaches in 1980, you did not believe that the unions at that stage would be prepared to accept a no disruption agreement. Given the statements that have been made by union leaders and given your own impression of the workers at GCHQ, is it not possible that the whole sequence of events has arisen from a misunderstanding about what would have been the attitudes of the trades unions nationally and locally if they had seriously been approached about a no disruption agreement, which seems to have been the basis of your plan because, from other answers that you have given, it is quite clear that you had not thought out, in whatever statements you made to the Government, what were the consequences of banning unions altogether.

(Sir Brian Tovey) I have two comments on that. All things are possible. I can only say that it has taken the Government's decision to ban trade unions at Cheltenham to cause the CCSU and others to come forward with a proposal for a no disruption agreement.

216. They would not have done it voluntarily, would they? You would not expect them to come forward without an approach having been made?

(Sir Brian Tovey) I repeat such approaches as were made did not bring forth very encouraging response and I suggest that the more encouraging response that has now been received could well be the result of the action the Government has taken, but that is a personal view. On your second point that I had not thought through

the consequences of the ban, I certainly would not claim that I was able to predict, in the finest detail, the consequences of the ban. Certainly, there was an expectation that it would not be universally welcomed. I said, if I remember rightly when the proposals were originally discussed, and I emphasise "originally" because I cannot speak to what has happened since 30 September, I said, if I remember rightly, that I believed that the majority of GCHQ staff would accept it.

217. I am sorry, you misunderstood my second point. In the plan that you drew up suggesting that unions be banned, did you look at a whole series of other alternatives, because you did indicate to one of our Members that you had not thought of the possibility of being a union member without the rights of bargaining, and it is possible to conceive of other means of reaching a no disruption situation, which is what you have been saying is essential.

(Sir Brian Tovey) We did consider a wide range of options. We certainly considered a no strike deal and, for the reasons I have explained, decided that this was a non-starter. I perfectly admit that we did not consider the armed forces analogy but, as I was saying, I am not quite sure how this would be helpful in the context of GCHQ because there is a very great difference between the terms of service. In the armed services, one is thinking of people serving for a limited period, going out into the world in perhaps their mid-forties or something like that, to look for another job. In the case of GCHQ, one is normally thinking in terms of somebody serving for the whole of their working lives, at the end of which the mere fact of having a trade union card which they had not been able to use or exercise during their membership of GCHQ would not seem to me to be terribly significant.

Mr Gorst

218. You have just made a most interesting observation and that is that you considered some other alternatives. You mentioned some but you have not mentioned all of them. Could you tell the Committee what other options were examined other than the ones that we have heard?

(Sir Brian Tovey) I am sorry but without going back to the files, I really could not remember them all in detail.

219. Can you remember any of them?

(Sir Brian Tovey) We certainly considered a no strike or no disruption arrangement. We considered the possibility of an internal staff association which might perhaps, in the fullness of time, attract a sufficiently large membership, but decided that really ———

220. You mean a single union situation?

(Sir Brian Tovey) Not a single union situation but an internal staff association which could, as it were, if established by the staff themselves, possibly draw away members from the national unions, but we decided, and I am sure Members of this Committee would think we were absolutely right so to decide, that there was no way in which management could get into the business of sabotaging the existing trade union movement by stealth. It either had to come from the staff or not at all. I am sorry, I cannot remember what the other possibilities were.

221. But there were others?

(Sir Brian Tovey) We looked at as many possibilities as we could and I need hardly say we took counsel and advice in other departments and tried, as far as possible, to see what was the right way to go. There has been at least a suggestion I think today

that it took us a devil of a long time to arrive at the decision we did arrive at and that, if I may say so, is because we were deeply concerned not to rush into one particular solution.

MB 222. Everything foundered in the end other than the chosen path of the Government on the grounds, first of all, that you did not believe the unions would make the concessions they have now made in the light of the Government's announcement and, secondly, for lack of bankable, cast-iron, legally binding, statutory, if you like, assurances?

(Sir Brian Tovey) That is right.

Mr Thurnham

223. There were two grey areas which I would be grateful for your help with. We have referred briefly to the 1980 local consultation. The Government say that there was a local consultation; the trade unions do not have a record of local consultation in 1980.

(Sir Brian Tovey) There certainly was local consultation in 1980. It was informal. It was informal. I do not remember anything being put in writing; in fact, I am jolly sure it was not, but there were some informal but perfectly serious soundings taken of local trade union elected officials within the place: "How would you feel about this?" The local trade union officials (whether or not they consulted their national officials I really do not know) eventually came back and said, "Sorry, management, you will have to think of a better idea than that", or words to that effect.

224. Was this a non-strike proposal or a banning of unions?

(Sir Brian Tovey) A no strike proposal.

225. The present option is to sign a form saying you have undertaken not to belong to a union?

(Sir Brian Tovey) So I believe but do remember I am getting my information from the press.

226. Was that part of the options you were considering at the time?

(Sir Brian Tovey) Yes.

227. You said you considered analogies with the armed forces and other intelligence units. Do you understand that the other intelligence units would sign a similar form saying they will undertake not to belong to a union?

(Sir Brian Tovey) I really do not know, but as I understand it it is a condition of service when one joins the other security and intelligence agencies that one simply will not be a trade union member.

228. Would this be a written thing or an unwritten thing?

(Sir Brian Tovey) That I do not know, I am afraid.

229. Did your successor have a different attitude to this problem to yourself, do you think?

(Sir Brian Tovey) Not in the least, no. He and I discussed it at great length.

230. We have not discussed lie detectors with you. Did these come up at the time as a problem area?

(Sir Brian Tovey) It is really a totally separate issue. The lie detector, or the pilot scheme for the lie detector, came up, as you know, as a recommendation of the Security Commission following the Prime case. It was accepted by the Government. It really did not have any bearing at all on this question of banning trade unions.

231. Is there anything else you think which would reflect on why this particular moment was chosen by the Government to make this

announcement, because it did come rather out of the blue and one wonders whether there were any factors at all.

(Sir Brian Tovey) No. The sequence of events was that this was rejected in early 1982 for the reasons I have described: the non-avowal of GCHQ. Once the avowal of GCHQ had taken place, it was obviously then open to Ministers to reconsider the matter. Officials were invited to look at it again and look at it again we did, not only in GCHQ, but obviously in consultation with other departments and in the fullness of time a proposal was put to Ministers who again, in the fullness of time, decided to accept it, but there was no particular reason for choosing January 1984 for making the announcement.

232. The consultations were with other Government departments like the Department of Employment and so on?

(Sir Brian Tovey) It included the Department of Employment.

Chairman: A thought has just occurred to me about the difference between MI6 and GCHQ. I think I am right in saying that in a document which is handed to new employees called "Guidance to New Employees", they were encouraged to join their trade union anyway. I do not want to pursue any more points. I would like to thank you very much for coming along. It has been of great interest to me to meet the author, if not the only dedicator of this plan which has aroused a lot of interest. You have certainly concentrated my mind on what I think is the nub of the issue which is this question of divided loyalty which you have rather graphically explained, where you can have an outside organisation, whatever right you all have to strike, and the members with their loyalty to the unions thinking they should strike, whereas there is the other loyalty to their job. So, GCHQ has to be

one way or another exempted from this type of disruption and it is a question for us to consider how this might be done and whether this is the only way. It has concentrated my mind and I think it has concentrated the minds of lots of people, including the national officials of the trade union, but this has been of great interest to me and I would like, on behalf of my colleagues, to thank you very much for coming along.
